IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6198 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KIRITKUMAR JAYANTILAL GANDHI

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 6198 of 1992

MR VN BHAGODIA for Petitioner No. 1

NOTICE SERVED for Respondent No. 1-3

CORAM : MR.JUSTICE J.M.PANCHAL

Date of decision: 16/10/2002

ORAL JUDGEMENT

1. By filing this petition under Article 226 of the Constitution, the petitioner has prayed to issue a writ of mandamus or writ of certiorari or any other appropriate writ, direction or order to quash and set aside the order dated February 19, 1992 passed by the

Deputy Collector, Stamp Duty Assessment Department, Surat City, under Section 32(A) of the Bombay Stamp Act by which the petitioner is called upon to pay deficit Court stamp duty of Rs.6400/- and a penalty of Rs.250/-.

2. The petitioner purchased land admeasuring 427 sq.ft. with a shop constructed thereon for a consideration of Rs.40,000/- by registered deed dated October 14, 1987. The Sub Registrar who is a Registering Officer under the Registration Act, 1908 was of the opinion that the consideration setforth therein did not approximate to the market value of the property which was the subject matter of the sale-deed. He, therefore, referred the instrument to the Collector for determination of true market value of such property and the proper duty payable on the instrument under Section 32(A)(1) of the Bombay Stamp Act, 1958 ("the Act" for short). On receipt of the instrument under subsection (1) of Section 32(A), the Collector issued notice to the petitioner under Rule 4 of the Bombay Stamp (Determination of Market Value of Property) Rules, 1984, showing the basis on which true market value of property and proper duty payable thereon was provisionally determined and called upon the petitioner to produce evidence to support the market value stated in the sale-deed. The petitioner was called by the Collector on April 26, 1991, but the petitioner failed to attend the Office of the Collector. Again, by a notice dated January 6, 1992, the petitioner was called upon to remain present and submit his case before the Collector on January 18, 1992, but the petitioner did not avail of that opportunity. Ultimately, the petitioner submitted his written explanation on January 29, 1992 which was taken into consideration by the Collector. After considering the representation received from the petitioner, the Collector was of the opinion that the value of the property which was the subject matter of the sale deed was Rs.1,20,000/- and that stamp duty of Rs.9600/- was payable by the petitioner. Accordingly, the order dated February 19, 1992 was passed by the Collector calling upon the petitioner to pay deficit stamp duty of Rs.6400/- and penalty of Rs.250/- giving rise to the present petition.

3. Though the matter has been listed for final hearing on eight occasions, the learned Counsel for the petitioner has not remained present and failed to address the Court on merits of the matter.

4. It cannot be gainsaid that for redressal of his grievance, raised in the petition, the petitioner has

effective statutory, alternative remedy under Section 32(B) of the Act. Further, as contemplated by Section 54 of the Act, the petitioner can require the Chief Controlling Revenue Authority to draw a statement of the case and refer it to the High Court which has to be decided by a Bench consisting of not less than three Judges of the High Court. Thus, in my view, the petition is misconceived and liable to be dismissed.

5. For the foregoing reasons, the petition fails and is dismissed. Ad interim relief granted earlier is hereby vacated. Rule is discharged. No order as to costs.

(J.M.Panchal,J.)

stanley-jmp.